

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT COOKEVILLE**

SHAUNEILLE MORTON)
Plaintiff,)
)
v.) Case No. 3:19-cv-1120
) Chief Judge Crenshaw/Frensley
WELLS FARGO/ASC AND)
SHAPIRO & INGLE, LLP.)

REPORT AND RECOMMENDATION

**I.
INTRODUCTION AND BACKGROUND**

Pending before the Court is Defendant, Wells Fargo Bank, N.A.’s (“Wells Fargo”) Motion to Dismiss Plaintiff’s Complaint Against It for Insufficiency of Service of Process. Docket No. 9. In its Motion, Defendant argues that despite this being the third action Plaintiff has filed against Wells Fargo for essentially the same relief, Plaintiff has taken no action to serve Wells Fargo through its registered agent as she had done in the previous lawsuits. *Id.* As a result, Defendant seeks dismissal on the grounds that Plaintiff has failed to effect service as required by Fed. R. Civ. P. 4(h). *Id.*

The Defendant has recently filed a Motion to Dismiss for Failure to State a Claim and Lack of Subject Matter Jurisdiction. Docket No. 30. In that Motion, Defendant states that “Plaintiff attempted several other times to serve Wells Fargo improperly, and she was finally able to obtain proper service on Wells Fargo recently.” Docket No. 30, p. 2. Because Plaintiff has now obtained proper service on Wells Fargo as acknowledged by Wells Fargo in its recently filed Motion to Dismiss, the undersigned recommends that Defendant’s Motion to Dismiss for Insufficiency of Service (Docket No. 9) be DENIED as moot.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).



JEFFERY S. FRENSLEY
U. S. Magistrate Judge